

SITE PLAN 1"=30'-0"

BALTIMORE COUNTY  
DEPARTMENT OF TRAFFIC ENGINEERING  
TOWSON, MARYLAND 21204  
494-3550

STEPHEN E. COLLINS  
DIRECTOR

July 23, 1984

Mr. Arnold Jablon  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Item No. 355 -LAC- Meeting of June 26, 1984  
Property Owner: Charles E. Vogler, et al  
Location: SE/S Gwynn Oak Avenue 418' N/E from c/l Windsor Mill Road  
Existing Zoning: B.L.  
Proposed Zoning: Variance to permit 29 parking spaces in lieu of the required 59 spaces.

Acres: 0.47  
District: 2nd

Dear Mr. Jablon:

I have reviewed the site plan for item number 355, the Charles E. Vogler property located on the SE/S of Gwynn Oak Avenue 418' N/E of Windsor Mill Road and have the following comments.

1. The parallel parking spaces should be 23 feet long.
2. If the parallel parking spaces on the southwest side of the site were to be changed to perpendicular spaces more space can be provided.
3. The zoning request is for 29 parking spaces, but this site plan shows only 27 spaces.
4. The parking variance may cause parking problems in the area.

Michael S. Pianigan  
Traffic Engineering Assoc. II

NEG/can

BALTIMORE COUNTY  
FIRE DEPARTMENT  
TOWSON, MARYLAND 21204-2586  
494-4500

PAUL H. RENCKE  
CHIEF

July 3, 1984

Mr. Arnold Jablon  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

Attention: Nick Commolari, Chairman  
Zoning Plans Advisory Committee

RE: Property Owner: Charles E. Vogler, et al

Location: SE/S Gwynn Oak Avenue 418' N/E from c/l Windsor Mill Road

Item No.: 355 Zoning Agenda: Meeting of 6/26/84

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- ( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals of \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

- ( ) 2. A second means of vehicle access is required for the site.

- ( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

EXCEEDS the maximum allowed by the Fire Department.

- ( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

- ( ) 6. Site plans are approved, as drawn.

- ( ) 7. The Fire Prevention Bureau has no comment at this time.

Noted and Approved: *George M. Hagan*  
REVIEWED BY: *John T. Kelly* 7-3-84  
Planning Group  
Special Inspection Division

/mb

BALTIMORE COUNTY  
DEPARTMENT OF PERMITS & LICENSES  
TOWSON, MARYLAND 21204  
494-3500

NO. 12554 JR  
DIRECTOR

Office of Planning and Zoning  
County Office Building  
Towson, Maryland 21204

ITEM #355

Comments on Item #355 Zoning Advisory Committee Meeting

are as follows:

Property Owner: Charles E. Vogler, et al

Location: SE/S Gwynn Oak Ave

Existing Zoning: B.L.

Proposed Zoning: Variance to permit 29 parking spaces in lieu of 59 spaces

Acres: 0.47

District: 2nd

The items checked below are applicable:

- (X) A. All structures shall conform to the Baltimore County Building Code 1981/ Council Bill 1-82 State of Maryland Code-see the referenced code and other applicable codes.

- (X) B. A building and other miscellaneous permits shall be required before beginning construction.

- (X) C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required.

- (X) D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.

- (X) E. An exterior wall erected within 6'0" of an adjacent lot line shall be of one hour fire resistant construction, no openings permitted within 3'4" of lot lines. A firewall is required if construction is on the lot line. See Table 1401, line 2, Section 1407 and Table 1402.

- (X) F. Requested variance conflicts with the Baltimore County Building Code, Section/s \_\_\_\_\_

- (X) G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the code requirements for the proposed change. Drawings may require a professional seal.

- (X) H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed complies with the height/area requirements of Table 505 and the required construction classification of Table 1401.

- (X) Comments: *See items in ATTACHED sheet*

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., 21204.

Very truly yours,

Charles E. Burnham, Chief  
Plans Review

CEB:rrj

PGM 01-82

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon  
TO: Zoning Commissioner  
Norman E. Gerber, Director  
FROM: Office of Planning and Zoning  
Charles E. Vogler, et al  
SUBJECT: No. 85-22-A

Date: September 5, 1984

This office is particularly concerned with the parking problems identified by the Division of Current Planning and Development's comments to the Zoning Plans Advisory Committee. Until these problems are satisfactorily resolved, this office cannot offer a favorable comment.

*Norman E. Gerber*  
Norman E. Gerber, Director  
Office of Planning and Zoning

NEG/JGH/sf

GERHOLD, CROSS & ETZEL

Registered Professional Land Surveyors

412 DELAWARE AVENUE  
TOWSON, MARYLAND 21204

823-4470

June 8, 1984

Zoning Description

All that piece or parcel of land situate, lying and being in the Second Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same on the southeast side of Gwynn Oak Avenue at the distance of 418 feet northeasterly from the east side of Windsor Mill Road and running thence and binding on east side of Gwynn Oak Avenue, the three following courses the southeast side of Gwynn Oak Avenue, the three following courses viz: North 49 degrees 40 minutes East 127.36 feet, and distances viz: North 49 degrees 34.48 feet and North 49 degrees South 40 degrees 12 minutes East 77.50 feet, thence leaving said Avenue 16 minutes 40 seconds East 77.50 feet, thence leaving said Avenue and binding on the outlines of the land of the petitioners herein, the three following courses and distances viz: South 28 degrees 49 minutes East 124.59 feet, South 61 degrees 37 minutes West 184.51 feet and North 39 degrees 59 minutes West 87.13 feet to the place of beginning.

Containing 0.47 of an Acre of land more or less.



PETITION FOR VARIANCE

2nd Election District

ZONING: Petition for Variance  
LOCATION: Southeast side Gwynn Oak Avenue, 418 ft. Northeast of Windsor Mill Road  
DATE & TIME: Wednesday, September 19, 1984 at 10:30 A.M.  
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variance to allow 31 parking spaces instead of the required 65 parking spaces

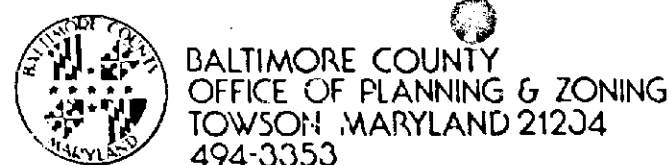
Being the property of Charles E. Vogler, et al, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF  
ARNOLD JABLON  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY

1. Buildings constructed on the same lot shall be separated from each other by distance or a fire rated wall as indicated in table 401 (EXTERIOR WALLS) See also Section 1311.0 on permits, see also section 1414 on opening walls.
2. IF structures are connected a fire separation minimum of 1-hour is required. If connected char coal shall not be used but instead gas grille with LARS ROCK providing a gas flow shutoff valve along with an annual inspection.
3. Ventilation in either case shall be sufficient to satisfy both the oxygen needs of the fire and the occupants. See Section M-905.0 B.O.C.A Mechanical Code & Table M-1001.1 for required C.F.M. per occupant. Exhaust vents shall comply with as required in M-1000.6 thru M-1000.10





ARNOLD JABLON  
ZONING COMMISSIONER

August 31, 1984

R. Bruce Alderman, Esquire  
305 West Chesapeake Avenue  
Towson, Maryland 21204

Re: Petition for Variance  
SE/S Gwynn Oak Ave., 418' NE of Windsor  
Mill Road  
Charles E. Vogler, et al - Petitioners  
Case No. 85-79-A

Dear Mr. Alderman:

This is to advise you that \$45.00 is due for advertising and posting of the above property.  
This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 134346

ARNOLD JABLON  
Zoning Commissioner

DATE 9-19-84 ACCOUNT 85-11-615-100  
AMOUNT \$45.00

RECEIVED FROM R. Bruce Alderman, Esq.  
FOR Advertising & Posting Case 85-79-A  
(Chas. E. Vogler, et al.)  
C 035\*\*\*\*\*45004 01547

VALIDATION OR SIGNATURE OF CASHIER

IN RE: PETITION ZONING VARIANCE  
SE/S of Gwynn Oak Avenue, 418'  
NE of Windsor Mill Road - 2nd  
Election District  
Charles E. Vogler, et al.  
Petitioners  
BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 85-79-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit 31 parking spaces instead of the required 65 spaces, as more particularly described on Petitioners' Exhibit 1.

The Petitioners, by their agents, Rick Berman and Nelson Carter, appeared and testified and were represented by Counsel. There were no Protestants.

The Petitioners are the owners of Monaghan's, a bar and restaurant on Gwynn Oak Avenue in Woodlawn that has been in business continuously and without interruption since 1902. The existing building contains two stories, the first floor of which is utilized as the bar and restaurant and the second floor is for storage and office use by the Petitioners. They purchased the property, zoned B.L., about two years ago from the family of the original owners and now want to resume the sale of barbecue pit beef that had been sold at one time by the former owners.

In order to do so, the Petitioners propose to add an 11' x 12' structure into the main building to house the barbecue operation. The proposed addition will be to the rear of the southwestern corner of the building and will face part of the existing parking lot.

The existing bar and restaurant and parking area, consisting of 31 spaces which surround the existing building, are nonconforming. By law, the proposed addition would require two parking spaces, and if the parking for the existing building were brought up to current legal standards, 65 parking spaces would be

LEGAL NOTICE

PETITION FOR VARIANCE  
2nd Election District

ZONING: Petition for Variance

LOCATION: Southeast Side Gwynn Oak Avenue, 418' NE of Windsor Mill Road

DATE OF HEARING: Wednesday, September 19, 1984 at 10:30 A.M.

PUBLIC HEARING: Room 113, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing.

Petition for Variance to allow 31 parking spaces instead of the required 65 parking spaces.

Being the property of Charles E. Vogler, et al. as shown on plat filed with the Zoning Department.

In the event that the Petition is granted, a building permit may be issued within the 180-day review period. The Zoning Commission reserves the right to suspend the review period for any reason.

By Order of  
ARNOLD JABLON  
Zoning Commissioner  
of Baltimore County

CERTIFICATE OF PUBLICATION

58721

Fikesville, Md., Aug. 29, 1984

I, that the annexed advertisement

the NORTHWEST STAR, a weekly

in Fikesville, Baltimore

before the 19th day of

19 84

tion appearing on the

day of 19

cation appearing on the

day of 19

the third publication appearing on the

day of 19

THE NORTHWEST STAR

Manager

Cost of Advertisement \$20.00

August 23, 1984

R. Bruce Alderman, Esquire  
305 West Chesapeake Avenue  
Towson, Maryland 21204

NOTICE OF HEARING

Re: Petition for Variance  
SE/S Gwynn Oak Ave., 418' NE of  
Windsor Mill Road  
Charles E. Vogler, et al - Petitioners  
Case No. 85-79-A

TIME: 10:30 A.M.

DATE: Wednesday, September 19, 1984

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 130531

DATE 9-15-84 ACCOUNT 85-11-615-102  
AMOUNT \$20.00

RECEIVED FROM R. Bruce Alderman, Esq.  
FOR Advertising & Posting Case 85-79-A  
(Chas. E. Vogler, et al.)  
C 115\*\*\*\*\*100015 01804

VALIDATION OR SIGNATURE OF CASHIER

total first floor area is 2,315 square feet). It will not expand the parking area, which must be included within the concept of a nonconforming use on this site. Indeed, any physical expansion will have no effect on the existing nonconforming use.

The Petitioners seek relief from Section 409.2.b.(3) and (6), pursuant to Section 307, BCZR.

A nonconforming use is an exception to generally applicable zoning requirements for a previously lawful, existing use. See, generally, 1 Anderson, *American Law of Zoning*, 2nd Edition, Section 6.01 to 6.73; 3 Rathkopf, *The Law of Zoning and Planning*, Section 58-1 to 62-18. The government recognizes a nonconforming use in derogation of the general zoning scheme in order to protect the interests of property owners. 1 Anderson, supra, Section 6.02 to 6.07; 3 Rathkopf, supra, Sections 58-1 to 58-3, 61-1. Nevertheless, the ultimate purpose of zoning was and is to reduce nonconformance to conformance as speedily as possible with due respect to the legitimate interests of all concerned. A permissible aim of the zoning regulations is to limit and forbid expansion of a nonconforming use and to forfeit the right to it upon abandonment of the use or the destruction of the improvements housing the use. *Grant v. Mayor and City Council of Balto.*, 129 A.2d 363 (1957). Whether a nonconforming use can be changed, extended, enlarged, altered, repaired, restored, or recommenced after abandonment is ordinarily governed by the provisions of the applicable ordinances and regulations. *Feldstein v. LaNale Zoning Board*, 227 A.2d 731 (1967). These regulations and ordinances must be strictly construed in order to effectuate the purpose of eliminating nonconforming uses. *Mayor of Balto. v. Byrd*, 62 A.2d 588 (1948).

Section 104, BCZR, is clear that a nonconforming use can be extended by 25% of the ground floor area of the buildings used. The parking area is nonconforming inasmuch as it was created prior to the existence of current parking space

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

July 25, 1984

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

R. Bruce Alderman, Esquire  
305 West Chesapeake Avenue  
Towson, Maryland 21204

MEMBERS  
Bureau of Engineering  
Department of Traffic Engineering  
State Roads Commission  
Bureau of Fire Prevention  
Health Department  
Project Planning  
Building Department  
Board of Education  
Zoning Administration  
Industrial Development

RE: Item No. 355  
Petitioner - Charles E. Vogler, et al  
Variance Petition

Dear Mr. Alderman:

After reviewing the above referenced petition, I have determined that I must discuss this matter with you before I can schedule the petition for a hearing.

In view of this, please contact me at 494-3391 as soon as possible.

Very truly yours,

NICHOLAS B. COMMODARI  
Chairman  
Zoning Plans Advisory Committee

NBC:bse

cc: Gerhold, Gross & Etzel  
412 Delaware Avenue  
Towson, Maryland 21204

requirements. Since there is no expansion of the parking area and the proposed structure will not extend the building more than 25% of its total floor area, a variance is not necessary. To determine otherwise would require a finding that either the proposed small structure subverts the nonconforming use on the parcel or that there is no such thing as a nonconforming parking lot. Certainly, the only purpose of a barbecue pit is to sell food, and the primary use of the property is as a restaurant. Therefore, the barbecue pit must be considered adjunct to and a part of the primary use. Although the restaurant and bar are permitted in a B.L. Zone by today's standards, the parking lot is still nonconforming. There is no purpose for the parking lot other than to serve the restaurant. They are inseparable when considering the use of the property. The scope of the use has not changed, and there has been no expansion of more than 25%. If, however, a variance were required, the requisites of Section 307 have been satisfied.

An area variance may be granted where strict application of the zoning regulation would cause practical difficulty to the petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the petitioner must meet the following:

- whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

*Anderson v. Bd. of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance were granted, such use proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

ORDER RECEIVED FOR FILING  
DATE 9-29-84  
BY [Signature]

ORDER RECEIVED FOR FILING  
DATE 9-29-84  
BY [Signature]

ORDER RECEIVED FOR FILING  
DATE 9-29-84  
BY [Signature]

ORDER RECEIVED FOR FILING  
DATE 9-29-84  
BY [Signature]



After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variance were not granted. It has been established that the requirement the Petitioners seek relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 26<sup>th</sup> day of September, 1984, that the Petition for Zoning Variance to permit 31 parking spaces instead of the required 65 be and is hereby DISMISSED since a variance is not required herein because a nonconforming use exists and there has been no expansion of more than 25% thereof.

*Arnold Jablon*  
Zoning Commissioner of  
Baltimore County

AJ/srl

cc: R. Bruce Alderman, Esquire

People's Counsel

ORDER RECEIVED FOR FILING

DATE September 26, 1984

BY *Arnold Jablon*  
ADMINISTRATIVE ASSISTANT

- 5 -

85-79-A

# BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Your petition has been received and accepted for filing this  
15th day of August, 19 84.

*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

Petitioner Charles E. Vogler, et al  
Petitioner's Attorney R. Bruce Alderman

Received by: *Nicholas B. Commodari*  
Nicholas B. Commodari  
Chairman, Zoning Plans  
Advisory Committee



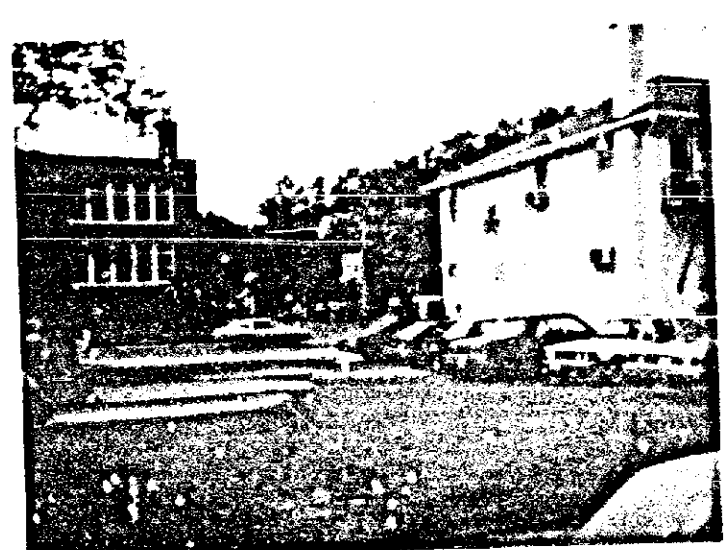
1st photo



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PETITION FOR VARIANCE  
2nd Election District  
ZONING: Petition for Variance  
LOCATION: Southeast side  
Gwynn Oak Avenue, 418 ft.  
Northeast of Windsor Mill  
Road  
DATE & TIME: Wednesday,  
September 19, 1984 at 10:30  
A.M.  
PUBLIC HEARING: Room  
106, County Office Building,  
111 W. Chesapeake Avenue,  
Towson, Maryland  
The Zoning Commissioner of  
Baltimore County, by authority  
of the Zoning Act and Regu-  
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Petition for Variance to al-  
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Being the property of Char-  
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In the event that this Peti-  
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riod. The Zoning Commissioner  
will, however, entertain any  
request for a stay of the im-  
position of said permit during this  
period for good cause shown.  
Such request must be received  
in writing by the date of the  
hearing set above or made at  
the hearing.  
By Order of  
ARNOLD JABLON,  
Zoning Commissioner  
of Baltimore County  
Aug. 30.

## CERTIFICATE OF PUBLICATION

TOWSON, MD., August 30, 1984

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on August 30, 1984.

THE JEFFERSONIAN,

*B. Ventral*  
Publisher

Cost of Advertising

2000

## CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

85-79-A

District 2nd

Date of Posting August 31-84

Posted for: Variance

Petitioner: Charles E. Vogler, et al

Location of property: SE/4 S. Gwynn Oak Ave. 418' N.E. of Windsor Mill Road

Location of Signs: SE/4 S. Gwynn Oak Ave. in front glass door of 2121 Gwynn Oak Avenue

Remarks:

Posted by *B. Ventral*  
Signature

Date of return Sept. 7-84

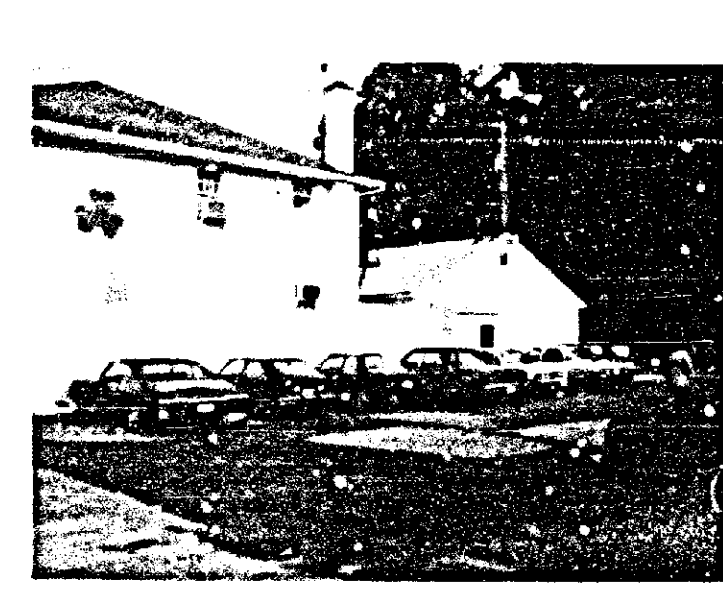
Number of Signs: 1



11

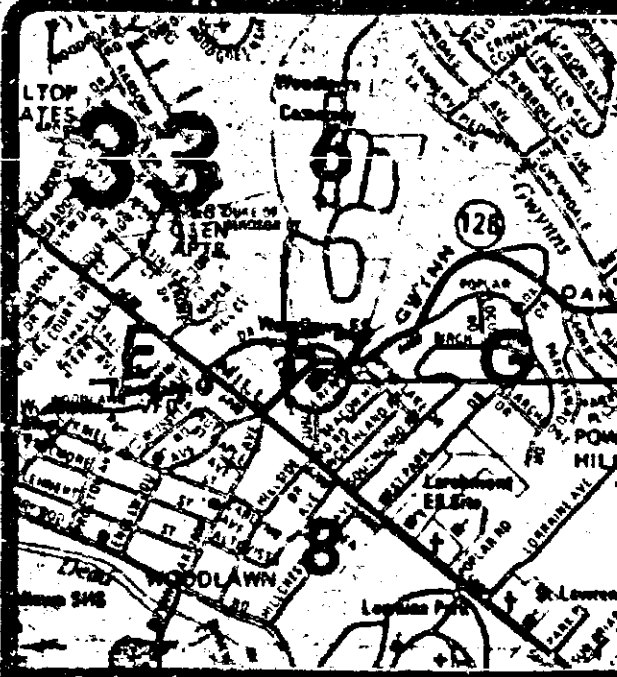


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15





VICINITY MAP

SITE

NW 3/4

EAST ELEVATION 1/2" = 1'-0"

SOUTH ELEVATION 1/2" = 1'-0"

SITE PLAN 1" = 30'-0"

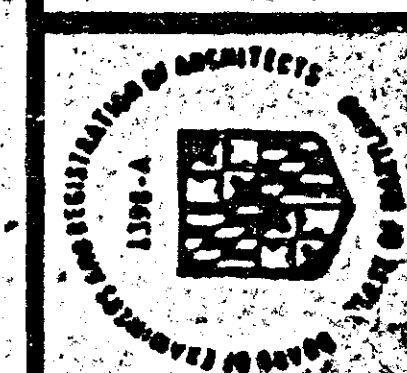
WEST ELEVATION 1/2" = 1'-0"

SECTION ① - ① 1/2" = 1'-0"

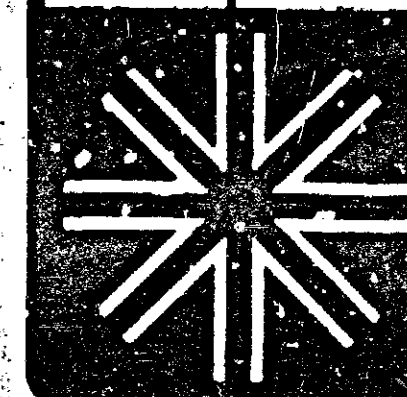
FLOOR PLAN 1/2" = 1'-0"

PATTISONER'S  
EXHIBIT 1

REVISIONS	BY
23 MAY 1984	CH
12 AUG 1984	CH



**BEEF PIT BUILDING**  
CALVIN KERN KOBZA, AIA & ASSOCIATES, INC.  
ARCHITECTS  
301 W. MONUMENT STREET, BALTIMORE, MARYLAND 21201  
301-437-8877



DRAWN	CH
CHECKED	CH
DATE	MARCH 27, 84
SCALE	NOTED
JOB NO.	5402
SHEET	A-1
OF	1 SHEETS

PARKING DATA:  
RETAIL AREA = 2235 SQ. FT.  
ONE PARKING SP/200 SQ. FT. = 11  
RESTAURANT AREA = 2117 SQ. FT.  
ONE PARKING SP/50 SQ. FT. = 42  
ONE PARKING SP/105 SQ. FT. = 8  
ONE SPACE/300 SQ. FT. = 3  
PARKING SPACES REQ'D = 65  
PARKING SHOWN 31

